

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
NOV 13 2017	
CLERK'S DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

MARTY SMITH,

Plaintiff,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, *et al.*,

Defendants.

Case No. 2:17-cv-02503-KJD-VCF

**REPORT AND RECOMMENDATION FOR
DISMISSAL WITH PREJUDICE**

On October 12, 2017, the Court granted Plaintiff Marty Smith's application to proceed *in forma pauperis* and dismissed his complaint without prejudice. (ECF No. 3). That complaint brought due process and equal protection claims against officers of the Las Vegas Metropolitan Police Department. (ECF No. 4 at 1). The Court found the complaint "failed to plead a plausible due process or equal protection claim" because it only contained "[b]are assertions that officers harassed Plaintiff and infringed on his liberty without any indication of what the officers' conduct was or how it affected Plaintiff" and "failed to allege that [Plaintiff] belongs to a protected class." (ECF No. 3 at 4).

The Court gave Plaintiff until November 6, 2017 to file an amended complaint and warned that "[f]ailure to timely file an Amended Complaint that addresses the deficiencies noted in this Order may result in a recommendation for dismissal with prejudice." (*Id.*). Plaintiff has failed to file an amended complaint or an objection to the Court's order. For the reasons discussed in the Court's October 12, 2017 Order (ECF No. 3), Plaintiff's complaint should be dismissed with prejudice.

Accordingly, and for good cause shown,

IT IS RECOMMENDED that this action be DISMISSED WITH PREJUDICE and Judgment entered, accordingly.

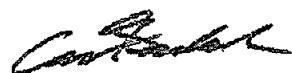
NOTICE

Under Local Rule IB 3-2, any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within 14 days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. (*See Thomas v. Arn*, 474 U.S. 140, 142 (1985)). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. (*See Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983)).

Pursuant to LSR 2-2, the Plaintiff must immediately file written notification with the court of any change of address. The notification must include proof of service upon each opposing party or the party's attorney. **Failure to comply with this Rule may result in dismissal of the action.** (*See* LSR 2-2).

IT IS SO RECOMMENDED.

DATED this 13th day of November, 2017.



CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE